

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF GEORGIA
STATESBORO DIVISION

LARRY ADAMS, SR.,

Petitioner,

v. 6:12-cv-95

ROBERT TOOLE,

Respondent.

ORDER

Before the Court is Larry Adams's Application for Certification of Appealability ("COA"). ECF No. 14.

Before an appeal may be entertained, a prisoner who was denied habeas relief in the district court must first seek and obtain a COA. . . ." *Miller-El v. Cockrell*, 537 U.S. 322, 335-36 (2003); see 28 U.S.C. § 2253(c). The Court will issue a COA "where a petitioner has made a substantial showing of the denial of a constitutional right." *Miller-El*, 537 U.S. at 336; see also 28 U.S.C. § 2253(c)(2). Petitioner "must show that reasonable jurists could debate whether (or, for that matter, agree that) the petition should have been resolved in a different manner or that the issues presented were adequate to deserve encouragement to proceed further." *Id.* (internal quotations omitted).

When the district court denies a habeas petition on procedural grounds without reaching the prisoner's underlying constitutional claim, a COA should issue when the prisoner shows, at least, that jurists of reason would find it debatable whether the petition states a

valid claim of the denial of a constitutional right and that jurists of reason would find it debatable whether the district court was correct in its procedural ruling.

Slack v. McDaniel, 529 U.S. 473, 484 (2000) (emphasis added).

Although Adams alleges violations of constitutional rights, he has not shown how reasonable jurists could disagree that he filed his habeas petition after 28 § 2244(d)(2)'s one year limitations period expired. In fact, Adams appears, in a roundabout way, to admit that he filed late. See ECF No. 14 at 6 (praying "for this court not to apply the letter of the law against the petitioner but to use righteous (sp) judgment. No one can perfectly keep the letter of the law."). Without making the required showing, Adams is not entitled to a COA. His motion is ***DENIED***.

This 28 day of March, 2013.



B. AVANT EDENFIELD, JUDGE
UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF GEORGIA